

SENATE BILL 2417
By McNally

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 1, relative to flea market legislation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding Sections 2 and 3 of this act as appropriately numbered new sections:

SECTION 2.

(a) For the purposes of this act, unless the context requires otherwise:

(1) "Merchant" means any business and/or operator who provides new and unused merchandise for sale to the general public; and

(2) "Manufacturer's or distributor's representative" means a person who has on his person and available for public inspection written proof that such person is authorized by the manufacturer or distributor for the public retail sale of those products which are offered for sale. Such credentials shall include the seller's name and may include a date upon which such authorization shall expire.

(b)

(1) Every new and unused property merchant shall maintain receipts for the purchase of such property so long as the receipts contain all of the following information:

(A) The date of the transaction;

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(B) The name and address of the person, corporation, or entity from whom the property was acquired;

(C) An identification and description of the property acquired.

(D) The price paid for such property; and

(E) The signature of the seller and buyer of the property.

(2) If a new and unused property merchant makes a single purchase of five hundred dollars (\$500) or more from an individual or corporation, the bill of sale from such purchase shall be sufficient to satisfy the record keeping requirements of this subsection.

(c) The record of each purchase transaction provided for in this section shall be maintained for a period of not less than two (2) years.

(d) If the receipts required to be maintained by this section are lost, stolen or destroyed and the circumstances surrounding such loss do not constitute a violation of subsection (e), the merchant required to maintain such receipts shall, within thirty (30) days of their loss, notify the sheriff of the county of such merchant's principal place of residence and shall immediately begin maintaining new receipts. A merchant who properly notifies the sheriff in accordance with this subsection shall not be considered in violation of subsections (a) or (b) as to any receipt that was maintained, lost, or stolen.

(e) It is an offense for any merchant required to maintain receipts under the provisions of this section to knowingly:

(1) Falsify, obliterate or destroy such receipts;

(2) Refuse or fail, upon the request of a law enforcement officer, to make such receipts available for inspection within a period of time which is reasonable under the individual circumstances surrounding such request; provided, nothing contained within the provisions of this

subsection shall be construed to require the merchant to possess such receipt on or about his or her person without reasonable notice;

(3) Fail to maintain the receipts required by this section for at least two (2) years; or

(4) Present credentials pursuant to the requirements of this section which are false, fraudulent, forged, fraudulently obtained or the nature of which is misrepresented.

(f)

(1) For the first violation of subsection (e), the violator shall be issued a warning and informed of the penalty for any subsequent violations.

(2) A second or subsequent violation of subsection (e) is a Class B misdemeanor punishable by fine only.

(g) For the first violation of subsection (b), the violator shall be issued a warning and informed of the penalty for any subsequent violations.

(h) A second and subsequent violation of subsection (b) is a Class B misdemeanor punishable by fine only.

(i) This section shall apply to all new and unused property purchased or acquired on or after January 1, 1999.

SECTION 3. The provisions of Section 2 of this act shall not apply to:

(1) The sale of a motor vehicle or trailer that is required to be registered or is subject to the certificate of title laws of this state;

(2) The sale of food products, agricultural products or forestry products;

(3) Business conducted at any industry or association trade show;

(4) The sale of arts or crafts by the person who produced such arts and crafts; or

(5) A manufacturer's or distributor's representative as defined in Section 2 of this act.

SECTION 4. This act shall take effect January 1, 1999, the public welfare requiring it.